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December 7, 2012

**By ECF**

Magistrate Judge A. Kathleen Tomlinson  
United States District Judge  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

Re: Thomas M. Moroughan v. County of Nassau et al.  
Index No.: CV-12-0512 (JFB)(AKT)

Dear Magistrate Tomlinson:

This office represents the County of Nassau and several Nassau County Police Officers in the above referenced action. The facts underlying this Section 1983 civil rights action involve an incident in Suffolk County on February 27, 2011 in which the plaintiff was shot by an off duty Nassau County Police Officer.

As party of the discovery in this action I agreed to disclose the entire Nassau County Internal Affairs Report (IAU Report) subject to a Confidentiality Stipulation signed by all parties which was filed on May 17, 2012 (Document 26).

Subsequent to the disclosure of the entire Nassau County IAU report and filing of the Confidentiality Stipulation, Plaintiff served an Amended Complaint via ECF on October, 22, 2012 (Document 34) which adds several new Nassau County Police Officers as parties, and contains language throughout which was lifted directly word for word from the Nassau County IAU Report. The Plaintiff's Amended Complaint was not filed under seal as clearly required by the Confidentiality Stipulation (See paragraph 2(i)).

It is the position of this office that the Plaintiff's Amended Complaint and all other documents or papers which make reference to the language and/or findings in the IAU Report should be ordered sealed by

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the Court. In addition, so as not to prejudice the Nassau County defendants at trial, it is requested that all language in the Plaintiff's Amended Complaint specifically referencing the IAU report be redacted.

I did not make this request earlier because at the time the Plaintiff's Amended Complaint was filed on ECF, I was on trial (with Plaintiff's Counsel, Mr. Grandinette) in the Kogut case before Justice Joanna Seybert, which was not concluded until November 29, 2012. I did obtain Mr. Grandinette's consent for an extension of time to serve the Answer to the Amended Complaint but I was unaware that the Amended Complaint was not filed under seal.

Thank you for your consideration of this request.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "M. Ferguson", is written over a horizontal line.

Michael Ferguson, Esq.

Deputy County Attorney

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